

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

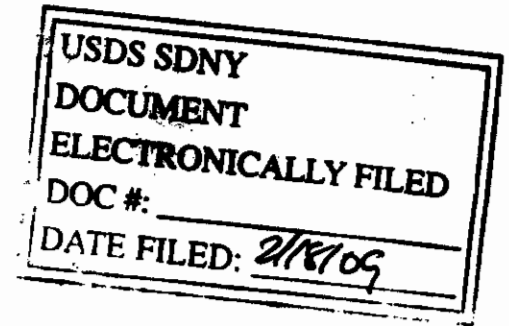
CHI KONG LEUNG, on behalf of himself and all
others similarly situated,

Plaintiffs,

-v-

HOME BOY RESTAURANT INC. d/b/a/ TRIBECA
GRILL and DREW NIEPORENT,

Defendants.



No. 07 Civ. 8779 (RJS) (DFE)
ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Before the Court is the February 4, 2009 Report and Recommendation ("R&R") of the Honorable Douglas F. Eaton, Magistrate Judge, regarding the parties' September 5, 2008 joint motion for preliminary approval of the settlement in this putative class action. Judge Eaton recommends that the Court:

- 1) Certify the Plaintiffs' proposed Settlement Class pursuant to Rule 23(b)(3);
- 2) Appoint the law firm of Joseph & Herzfeld LLP to serve as Class Counsel for the Settlement Class pursuant to Rule 23(g);
- 3) Issue preliminary approval of the proposed settlement as described in the parties' Joint Stipulation of Settlement And Release (Doc. No. 19-1);
- 4) Approve the proposed Settlement Notice that is to be mailed to Settlement Class members, as revised by Plaintiffs' counsel in connection with to Judge Eaton's recommendations (Doc. No. 21); and
- 5) Execute the proposed "Order Preliminarily Approving Class Action Settlement And Providing For Notice" (Doc. No. 19-4), after making certain revisions recommended in the R&R.

By letter dated February 5, 2009, Defendants indicated to the Court that they do not object to any portion of Judge Eaton's R&R. The Court has independently reviewed the R&R, and agrees

with Judge Eaton that the proposed settlement appears to be the product of extensive, arms-length negotiations conducted by experienced counsel with input from the parties, and that preliminary approval of the proposed settlement is therefore appropriate.

Accordingly, in light of Judge Eaton's thorough review of the parties' joint motion, and because neither party has objected to his recommendations, the Court adopts the R&R in its entirety and will separately execute the proposed "Order Preliminarily Approving Class Action Settlement And Providing For Notice" with the revisions recommended by Judge Eaton. The Clerk of the Court is respectfully directed to terminate the motion docketed as document number 18.

SO ORDERED.

Dated: February 18, 2009
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE